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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,619	08/25/2003	Dennis A. Boismier	1001.1689101	2861
28075 7590 06/29/2007 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER WYSZOMIERSKI, GEORGE P	
			ART UNIT 1742	PAPER NUMBER
			MAIL DATE 06/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/647,619	Applicant(s) BOISMIER ET AL.	
	Examiner George P. Wyszomierski	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The Amendment filed on April 27, 2007 has been entered. The pending claims are claims 23-36.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23-26 and 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath (U.S. patent 5,725,570) in view of Bellouard et al. (U.S. Patent 6,669,794).

Column 8 of Heath discloses a stent including wire loop portions made of a Ni-Ti alloy that initially has linear elastic properties but includes a flexible portion which has been heated to obtain superelastic properties. Heath does not state that an intermediate portion of the prior art devices is flexible or superelastic, "only one" superelastic region as recited in instant claim 29, does not refer to "filter legs" as recited in instant claims 25 and 34, and does not refer to the temperature range of instant claim 31. However,

a) With regard to intermediate portions or only one portion of superelasticity, Bellouard indicates that it was known in the art, at the time of the invention, to subject Ni-Ti alloys for use as medical devices to localized heat treatments to obtain superelasticity in a desired portion of the device. See Bellouard column 7, lines 5-10.

Further, Bellouard column 10, lines 35-45 as well as column 13 of that reference, indicate that any desired portion or portions of the devices may be made superelastic in this manner.

b) The interwoven material depicted in the drawings of Heath would appear to be suitable as a filter or filter leg material.

c) The temperature range used in Heath column 8 overlaps that presently claimed.

Thus, the combined disclosure of Heath and Bellouard et al. would have rendered devices as claimed obvious to one of ordinary skill in the art.

4. Claims 23, 25, 27-32, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muni et al. (U.S. Patent 6,375,629) in view of Bellouard et al.

Column 7 of Muni discloses a core wire made of a Ni-Ti alloy that initially has linear elastic properties but includes a flexible portion which has been heated to obtain superelastic properties. Muni does not state that an intermediate portion of the prior art devices is flexible or superelastic, "only one" superelastic region as recited in instant claim 29, does not refer to "filter legs" as recited in instant claims 25 and 34, and does not refer to the temperature range of instant claim 31. However,

a) The disclosure of Bellouard columns 7, 10 and 13 renders the making of any desired portion or portions of the Muni devices superelastic obvious to one skilled in the art, for reasons as stated in item 3(a) supra.

b) Muni column 3, line 19 indicates the suitability of the prior art materials for use in filters.

c) The temperature ranges disclosed in column 7 of Muni overlap those as presently claimed.

Thus, the combined disclosures of Muni et al. and Bellouard et al. would have rendered devices as presently claimed obvious to one of ordinary skill in the art.

5. By the Amendment of April 27, 2007, Applicant has amended the independent claims to require that the flexible or superelastic portion of the claimed devices be an intermediate portion. Applicant argues that the previously applied prior art (Heath, Muni) does not disclose such a feature. The examiner believes that the newly cited Bellouard reference supplies any deficiency that may have been present in the Heath or Muni disclosures, as set forth in the rejections supra.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Wyszomierski whose telephone number is (571) 272-1252. The examiner can normally be reached on Monday thru Friday from 8:00 a.m. to 4:30 p.m. Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on (571) 272-1244. All patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GPW
June 25, 2007


GEORGE WYSZOMIERSKI
PRIMARY EXAMINER
GROUP 1700